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August 27, 2001

DWD Issuance 08-00 (Change 1)

Subject: Policy Guidance on Corrective Actions/Sanction Procedures

1. Purpose: To establish the Missouri DWD procedure to be followed in the event a recipient of Title I financial assistance is found to be out of compliance with Section 188-Nondiscrimination of the Workforce Investment Act of 1998 (Public Law 105-220); 20 CFR Part 652, et.al. – Workforce Investment Act, Section 667.275; and 29 CFR Part 37 –Implementation of the Nondiscrimination and Equal opportunity provisions of the Workforce Investment Act (WIA) of 1998.

2. Substance: The State, on its own or as directed by the Civil rights Center (CRC) U.S. Department of Labor, will periodically review or monitor the practices of recipients (see definition for “recipient” at 29 CFR part 37.4 of Title I WIA financial assistance, to determine whether they are complying with the equal opportunity and nondiscrimination provisions of the ACT and the State’s Methods of Administration (MOA).

Whenever a compliance review report, complaint or any other information indicates a possible failure to comply with the ACT, or 29 CFR part 37, and/or the State’s MOA, a determination will be made after analysis and review if a violation exists. Corrective action and sanctions are required elements of the MOA. The USDOL also has a corrective action and sanction procedure that may be implemented independently of the State’s procedure.

When a determination of noncompliance is made during an onsite Equal Opportunity (EO) monitoring of a recipient, the State EO Officer will make every effort to provide onsite technical assistance to correct the violation. Corrective action may begin while the State EO staff is onsite. Examples of onsite corrective actions may include posting EO notices or removing a comment from a participant’s file.

Corrective actions that cannot be fully addressed (e.g. development of a preliminary plan to address an accessibility issue such as wheelchair accessibility) during an onsite review will be part of the EO monitoring report. The recipient has 30 days from the date of receiving the report to respond to the findings and correct any violations of the ACT or EO provisions identified above. EO staff will follow-up within 30 days of the recipient's response to ensure that corrective action has occurred. If the recipient requests an extension to the 30 day corrective action due date and shows good cause for this request, the state agency will consider those reasons prior to granting a reasonable extension.

When EO violations are found during the course of a discrimination-complaint investigation, those issues will become part of the findings of fact. Depending on the extent and severity of the violations, technical and programmatic corrective actions may be among the recommendations. They may also include "make-whole" provisions such as retroactive relief (e.g. back wages or benefits) and prospective relief (e.g., change of policy). A response must include assurance /plan to attain compliance within 30 days of the issuance of an investigative report. State EO staff will follow-up/monitor corrective action within 30 days. Extension requests, depending on the nature of the violation connected to findings of discrimination, may be considered for good cause shown.

A lack of response to findings of noncompliance or failure to implement corrective actions promised in a response by a recipient, will result in a Notice to Show Cause why an enforcement proceedings or sanctions should not begin. The corrective action that needs to be accomplished, along with ways to correct noncompliance, will be part of the Notice. The recipient will be given 30 days to respond to this notice.

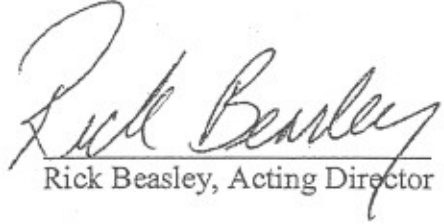
A partial response or lack of response to the Show Cause Notice will be elevated to the Governor of Missouri for determination of appropriate sanctions. Sanctions may include but are not limited to: (see DWD Issuance 08-00, p.2, Procedures).

3. Action:

All Division of Workforce management and administrative staff, affiliated agencies and vendors are to be made aware and adhere to the provisions and processes identified in DWD issuance 08-00 and the addendum.

4. Contact:

Please contact Juanita J. Davis, EO Officer, Missouri Division of Workforce Development, DPA, telephone (573) 751-3193 or e-mail, jdavis@wfd.state.mo.us.



Rick Beasley, Acting Director

RB/JJD/dp

Attachments:

Part 29 CFR Part 37.90-115

WIA Act of 1998 Public Law (Section 184)

cc: DWD Administration
DWD Central Office Managers
DWD Regional Managers
WIB Chairs
WIB Local Contacts